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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,091	09/05/2003	Steven Lee McDonald		5858

7590 06/19/2006

Harold W. Adams, PC  
106 Esquire Court  
Oak Ridge, TN 37830

EXAMINER
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ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/655,091

Applicant(s)

MCDONALD, STEVEN LEE

Examiner

Gary Estremsky

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>here to</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 4/6/06. These drawings are approved.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: recitation of "fastener on an opposite the other annular separation" appears to have grammar or missing words problem. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 (and consequently claim 10) depend from cancelled claim 1. To expedite prosecution, claim 3 is being treated as dependent from 6 since the actual claim dependency appears to be a typographical error. Further regarding claim 10, recitation of "conventional" renders the scope and meaning of the claim indefinite since it is not clear if any further structural limitation is actually required. For purpose of

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examination, the limitation is being interpreted to include known structure of any type (as might be evidenced by prior art).

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Limitation of claim 6 (from which claim 5 depends) requires annular ring sections to be rotatably interconnected at first ends and the opposite ends of said annular ring sections also being connected/compressed by the adjustable fastener means.

Limitation of claim 5 contradicts/removes limitations of claim 6 from which it depends since it effectively requires additional pivotal connecting structure on one of the opposite ends structurally associated with the adjustable fastener means. It is suggested that "the opposite ends" of claim 6 be replaced with --two other ends--.

6. Claims 2, 3, and 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear what the scope and meaning of "without compression tension resistance" is (claim 6). Examiner notes that compression stress is the opposite of tension stress. As best understood, it is suggested that recitation be replaced with --without bending or deforming any of said individual ring sections--.

Additionally as regards claims 8 and 9, inasmuch as the "lid" and "rim" are not claimed as part of the invention, it's not clear if further limitations to same further define the invention. It is suggested that claims 8 and 9 be amended to include --The invention of claim 6 being mounted on the lid and drum and further including,...-- to be clear that the combination is being claimed.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 2, 3, 6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 1,958,923 to Mohler.

Mohler '923 teaches Applicant's claim limitations including : an "annular closing ring formed of at least two spaced annular ring sections" - 5,5, "rotatably interconnected" – at 6, "adjustable fastener means" – including 7,23. It's noted that examiner's claim interpretation does not include a "lid", "drum" or their structure as part of the claimed invention insofar as they are only functionally recited but not positively claimed as part of the invention. Regardless, structure of the reference including 1,10 reads on broad recitations to that structure.

As regards claim 9, the lip and rim of the reference "are curved" as seen from above.

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9. Claims 2, 3, 5, 6, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,801,764 to Russell.

Russell '764 teaches Applicant's claim limitations including : an "annular closing ring formed of at least two spaced annular ring sections" - 36,36,36, "rotatably interconnected" – at 46,46, "adjustable fastener means" – as best shown in Fig's 1,4. It's noted that examiner's claim interpretation does not include a "lid", "drum" or their structure as part of the claimed invention insofar as they are only functionally recited but not positively claimed as part of the invention. Regardless, structure of the reference reads on broad recitations of that structure.

As regards claim 9, the lip and rim of the reference "are curved" as seen from above.

As regards claim 10 structure including 1 element 48 and at least one element 44 can be considered to be attached to one end of ring section, and the other element 48 attached to the other adjacent ring section. Part 46 anticipates "pivot pin".

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,958,923 to Mohler in view of U.S. Pat. No. 5,193,864 to Coleman.

Although the adjustable fastener (7,23) of Mohler '923 does not appear to be readily separable from the clamping ring, it is well known in the art of clamping rings to provide equivalent threaded nut and bolt structure that is "detachably secured" as shown by Coleman '864. It would have been an obvious design choice or engineering expedient for one of ordinary skill in the art to provide detachably-secured threaded nut and bolt as taught by Coleman '864 on the clamping ring of Mohler '923 in order to allow old or damaged adjustable fastener to be replaced. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function.

As regards claim 8, Mohler '923 discloses a gasket 15 but it is not strictly speaking "between the lip of said lid and rim of said drum". However, Coleman '864 discloses (in Fig 5 for example) that it is well known to provide a gasket between the lid and drum. It would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the lid and drum of Mohler '923 with a gasket therebetween as taught by Coleman '864 to aid in creating a seal. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function.

### ***Response to Arguments***

12. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. While several suggestions for amendment have been made

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above, entry after close of prosecution is not a matter of right. The suggestions are not intended to imply that claims so amended would be allowable.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 2,982,437 to Wheatley.

U.S. Pat. No. 3,601,868 to Elmer.

U.S. Pat. No. 6,523,866 to Lin.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

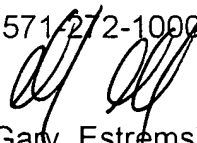
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gary Estremsky  
Primary Examiner  
Art Unit 3676